

THIS DISPOSITION IS NOT
CITABLE AS PRECEDENT OF THE TTAB

MAY 26, 98

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Bridgewater Auto Body Shop, Inc.

Serial No. 74/673,178

Robert D. Frawley of Smith, Stratton, Wise, Heher & Brennan
for applicant.

Mitchell Front, Trademark Examining Attorney, Law Office 101
(R. Ellsworth Williams, Managing Attorney).

Before Hanak, Hohein and Walters, Administrative Trademark
Judges.

Opinion by Walters, Administrative Trademark Judge:

Bridgewater Auto Body Shop, Inc. has filed a trademark
application to register the mark MANAGED CARE FOR COLLISION
REPAIR for "motor vehicle body repair services."¹

The Trademark Examining Attorney has finally refused
registration under Section 2(e)(1) of the Trademark Act, 15
U.S.C. 1052(e)(1), on the ground that applicant's mark is
merely descriptive of its services.

Applicant has appealed. Both applicant and the Examining Attorney have filed briefs, but an oral hearing was not requested. We affirm the refusal to register.

The Examining Attorney acknowledges that "[t]he term MANAGED CARE is most commonly associated with the field of health care and health care insurance to denote a method of providing health care, while keeping costs down" but contends that "MANAGED CARE has come into common use in the automotive repair industry to describe a method of keeping automotive repair costs down." In support of this contention, the Examining Attorney has submitted excerpts of articles from the LEXIS/NEXIS database. The following are several examples:

"Managed Care Comes to Car Repair; Auto Insurers see CMOs Cutting Body Shop Costs As HMOs Did in Medicine" - Just as it did for hospitals, managed care for cars is expected to transform the body shop industry by increasing pressure to become more cost effective. That is precisely the development that garage owners most fear. [*The Washington Post*, November 21, 1995.]

A reaction by the industry to rising repair costs is to institute "managed care" programs for car repair, borrowing the concept of managed care from the medical care field. [*National Underwriter, Property & Casualty/Risk & Benefits Management Edition*, October 30, 1995.]

. . . Insurance in Massachusetts is offering 10 percent discounts through three of the state's five American Automobile Association clubs. -- Body-shop managed-care plans. These will get a

¹ Serial No. 74/673,178, in International Class 37, filed April 25, 1995, based on an allegation of a bona fide intention to use the mark in commerce.

run in New Jersey starting next year. [*Sun Sentinel*, Ft. Lauderdale, September 22, 1995.]

"Lawmakers poised to kill managed care auto plan"
-- . . . drivers to save on automobile insurance costs by agreeing to go to mechanics chosen by the insurance companies for car repairs after an accident. Supporters of the managed care option argue it is strictly an alternative that can be selected by those who want it. [*New Jersey Lawyer*, November 20, 1995.]

In their efforts to contain costs, insurance companies are forcing and will continue to force "managed care" into the body shop business by dictating how a repair will be done, what parts will be used and how much they will pay, the report says. [*Automotive News*, July 1, 1996.]

The Examining Attorney contends that the term MANAGED CARE does not relate only to insurance services. Rather, "auto body repair services are a necessary ingredient when a MANAGED CARE automobile insurance model is used [as] . . . the body shop must be one that is approved by the insurer." The Examining Attorney argues that the phrase COLLISION REPAIR is, likewise, highly descriptive of applicant's services as applicant "is in the business of repairing cars which have been involved in collisions."

Applicant contends that its mark is incongruous as MANAGED CARE is primarily a medical reference and, thus, the mark will be read as suggesting "physicians examining and treating an automobile." Applicant concedes that "the term 'managed care' may be used to describe insurance reimbursement services both in connection with medical

insurance and, potentially, automobile insurance" but contends that, since applicant renders auto body repair services, not insurance services, the term is, at most, suggestive in connection with applicant's services. In this regard, applicant states that "it would be willing to disclaim the use of the words 'MANAGED CARE' apart from the mark as shown in order to confirm that applicant has no interest in using the mark in connection with insurance services or other services outside of motor vehicle body repair."²

The test for determining whether a mark is merely descriptive is whether the involved term immediately conveys information concerning a quality, characteristic, function, ingredient, attribute or feature of the product or service in connection with which it is used, or intended to be used. *In re Bright-Crest, Ltd.*, 204 USPQ 591 (TTAB 1979); *In re Engineering Systems Corp.*, 2 USPQ2d 1075 (TTAB 1986). It is not necessary, in order to find a mark merely descriptive, that the mark describe each feature of the goods, only that it describe a single, significant quality, feature, etc. *In re Venture Lending Associates*, 226 USPQ 285 (TTAB 1985).

² Applicant appears to be offering this disclaimer to emphasize its contention that the phrase is not merely descriptive in connection with its identified services, rather than as a concession that it is merely descriptive in connection therewith. As the Examining Attorney correctly points out, such an amendment would not serve the purpose intended by applicant. Thus, we give the proffered amendment no further consideration.

Further, it is well-established that the determination of mere descriptiveness must be made not in the abstract or on the basis of guesswork, but in relation to the goods or services for which registration is sought, the context in which the mark is used, and the impact that it is likely to make on the average purchaser of such goods or services. *In re Recovery*, 196 USPQ 830 (TTAB 1977).

First, we note that applicant does not discuss the descriptiveness of the term COLLISION REPAIR in its mark and, thus, we consider applicant to have conceded the Examining Attorney's argument that the term COLLISION REPAIR is highly descriptive of applicant's services as applicant "is in the business of repairing cars which have been involved in collisions." Even if we were to consider applicant's lack of argument on this point to be an oversight rather than a concession, we agree with the Examining Attorney that the term COLLISION REPAIR is highly descriptive in connection with applicant's services. While not all auto body damage is the result of a collision with another vehicle or object, clearly a significant portion of such damage repaired by an auto body shop is the result of a collision. Thus, COLLISION REPAIR is merely descriptive of one type of auto body repair undertaken as part of applicant's services.

As applicant concedes, the Examining Attorney has established that MANAGED CARE, while originally a term most commonly associated with the field of health care and health care insurance to denote a method of providing health care, while keeping costs down, the insurance industry has applied the phrase, and the cost-containing concepts it implies, to the automotive repair industry to describe a method of keeping automotive repair costs down. The fact that applicant is applying the term to motor vehicle body repair services does not render the term incongruous, as such services are an integral part of a managed care system. Thus, considered in connection with applicant's services, we find no incongruity in the phrase MANAGED CARE FOR COLLISION REPAIR. Rather, it is our view that, when applied to applicant's services, the phrase MANAGED CARE FOR COLLISION REPAIR immediately describes, without conjecture or speculation, a significant feature or function of applicant's services, namely, that applicant's motor vehicle body repair services are rendered as part of an arrangement with motor vehicle insurance providers that establishes practices and prices for collision motor vehicle body repairs. Nothing requires the exercise of imagination, cogitation, mental processing or gathering of further information in order for purchasers of and prospective customers for applicant's services to readily perceive the

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merely descriptive significance of the phrase MANAGED CARE
FOR COLLISION REPAIR as it pertains to applicant's
identified services.

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Decision: The refusal under Section 2(e)(1) of the Act
is affirmed.

E. W. Hanak

G. D. Hohein

C. E. Walters
Administrative Trademark Judges,
Trademark Trial and Appeal Board